

## ANALYSIS OF ORIGINAL BILL

Author: Pacheco Analyst: Gloria McConnell Bill Number: AB 2613

Related Bills: \_\_\_\_\_ Telephone: 845-4336 Introduced Date: 02/23/98

Attorney: Janet Ballou Sponsor: Riverside Cnty Bd Sup

SUBJECT: Court Ordered Fines, Fees and Costs/Change Offset Priority

### SUMMARY

Under this bill, any income tax refunds and lottery winnings would be offset against any court-ordered debts before any debt owed a state agency, except child support and overpaid unemployment benefits would still take precedence.

### EFFECTIVE DATE

This bill would be effective and operative on January 1, 1999.

### PROGRAM HISTORY/BACKGROUND

Under the Government Code, the Controller has the authority to offset any debts a person or entity owes the state against any amounts that the state owes the person or entity. Additionally, the Controller has the authority to offset certain specified debts a person or entity owes a city or county against any amounts that the state owes the person or entity.

The Controller, as required by law, in conjunction with the Franchise Tax Board (FTB), developed an offset program to provide for multiple offsets for the same debtor with specified and adjustable priorities. FTB administers and operates this automated offset program, which offsets income tax refunds and lottery winnings, for the Controller. To participate in the program, the governmental agency responsible for collection of the debt must file with the Controller's office a request to participate. Once participation is approved, the governmental agency submits a list of its debts, by type of debt when necessary for purposes of the offset hierarchy. FTB assigns that agency and debt type an identifying code, which is recognized in the offset hierarchy process. In the event a person or entity owes multiple debts, debts subject to offset generally are prioritized, by law, as follows:

- Child and family support, including that support owed the state;
- Certain overpaid unemployment benefits; and

### DEPARTMENTS THAT MAY BE AFFECTED:

\_\_\_\_ STATE MANDATE

\_\_\_\_ GOVERNOR'S APPOINTMENT

#### Board Position:

\_\_\_\_ S \_\_\_\_ O  
\_\_\_\_ SA \_\_\_\_ OUA  
\_\_\_\_ N \_\_\_\_ NP  
\_\_\_\_ NA \_\_\_\_ NAR  
\_\_\_\_ X \_\_\_\_ PENDING

#### Agency Secretary Position:

\_\_\_\_ S \_\_\_\_ O  
\_\_\_\_ SA \_\_\_\_ OUA  
\_\_\_\_ N \_\_\_\_ NP  
\_\_\_\_ NA \_\_\_\_ NAR  
DEFER TO \_\_\_\_\_

#### GOVERNOR'S OFFICE USE

Position Approved \_\_\_\_  
Position Disapproved \_\_\_\_  
Position Noted \_\_\_\_

Department Director Date  
G. Alan Hunter 3/24/98

Agency Secretary Date

By: Date

- Other debts in the priority determined by the Controller, which is as follows:
  1. All other state debts, with the greatest liability having first priority;
  2. Certain county/city debts;
  3. Certain debts of community colleges and educational institutions; and
  4. Internal Revenue Service.

For fiscal year 1996-97, approximately \$17 million was offset to state debts that were other than child support or overpaid unemployment benefits. Currently, cities/counties are not required to submit or identify court-ordered debts separate and apart from other of their debts subject to offset.

#### SPECIFIC FINDINGS

**Currently**, in the event a person or entity owes an amount to both the state and the city/county, offsets are applied first against the state debt, then the city/county debt. By law, the city/county debts that are subject to offset, include the following amounts:

- Amounts reduced to judgment;
- Amounts contained in a order of a court;
- Amounts from a bench warrant for payment of any fine, penalty or assessment;
- Delinquent unsecured property taxes on which a certificate of lien has been filed;
- Certain court-ordered reimbursement for court-related services and unpaid vehicle parking related fines, penalties and assessments.

**Under this bill**, in the event the person owes multiple debts, court-ordered debts would be offset before a state debt that is other than child support or overpaid unemployment benefits. The other city/county debts subject to offset would continue in their same place in the priority hierarchy.

#### Implementation Considerations

To receive this new priority, the city/county would have to request an identification code solely for court-ordered debts. It is presumed that the debts described in this bill (unpaid fines, fees, and costs for which a court of competent jurisdiction has ordered payment) would be referred to FTB by a county because they are court-ordered. But that is unclear because the debts are not described in the same manner as described under Sections 12419.8 and 12419.10 of the Government Code, which allow for cities and counties to participate in the program. For example, it is unclear when a state or city agency litigates a civil matter and receives a judgment, which includes fines, fees and costs, whether that judgment and other amounts could be referred by the state or city and receive the priority set forth in this bill. To avoid confusion for the entities submitting offset requests, and consequently FTB staff, perhaps the court-ordered debts could be more clearly defined. Upon request of the author, FTB staff is available to provide technical assistance.

FISCAL IMPACT

Departmental Costs

This bill would not significantly impact the department's costs.

Tax Revenue Estimate

This bill would not impact tax revenue or significantly impact FTB's non-tax collection programs.

BOARD POSITION

Pending.